

IN THE DRAWINGS

FIGS. 1 and 2 have been amended to add reference numeral 25.

FIGS. 1-15, sheets 1-6 as currently amended have been replaced with formal drawings.

REMARKS

Applicants appreciate the Examiner's indication that Claims 7, 9, and 13 are allowed, and that Claims 1, 3, 5, and 6 would be allowable if rewritten or amended to overcome the 35 USC § 112, second paragraph, rejection(s). Claims 1 and 5 have been amended accordingly, and Claims 4, 10, 11, and 12 have been canceled. Applicants also appreciate the Examiner's indication that Claim 15 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 15 has been amended accordingly and Claim 14 has been canceled. Claims 16 and 17 had been amended to depend upon rewritten Claim 15. The Applicants have also amended FIGS. 1 and 2 to include reference numeral 25. A marked up copy of the last submitted drawings, FIGS. 1 and 2, showing the changes circled in red are submitted herewith. The Applicants have also submitted formal drawings, FIGS. 1-15, 6 sheets, reflecting all previous and current changes made in this response. The Applicants have also made corrections to informalities in the specification.

The Applicants submit that these minor amendments and corrections herein are made without prejudice as to patentability, including the doctrine of equivalents, were not necessary to overcome the cited reference, and that no new matter has been added. The Commissioner is hereby authorized to charge or credit any fees to Bracewell & Giuliani LLP's, Deposit Account No. 50-0259 (Order No.: 032528.000007).

Claims 1, 3, 5 and 6 are Not Indefinite

The Examiner rejected Claims 1, 3, 5, and 6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. The Examiner stated that Claims 1 and 5 include confusing or duplicative subject matter. Applicants have amended the claims. Thus, Applicants respectfully request the Examiner withdraw the rejection.

Claims 4, 10-12, 14, 16, and 17 as previously or originally presented are not Anticipated or Obvious

The Examiner rejected Claims 4, 10-12, 14, 16, and 17 under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being obvious over Shichman,

U.S. Patent No. 5,104,383. The Applicants respectfully disagree; however, in order to expedite issuance of a patent, Applicants have canceled Claims 4, 10-12, and 14 and amended Claims 16 and 17 to be dependent upon rewritten Claim 15 indicated by the Examiner as having allowable subject matter. The cancellations and amendments have been made without prejudice to patentability, including the doctrine equivalents.

Shichman describes an adapter seal (FIG. 3) for use with a cannula assembly (4), FIG. 1. Shichman does not, however, disclose, teach, or suggest each feature described in independent Claims 4, 10, and 14, or dependent claims 11-12 and 16-17. For example, as shown in Shichman, FIG. 2, that which the Examiner identifies as the transition region (equated by the Examiner to Applicants' shield stop 49) is not "extending outwardly from the medial portion to the proximal portion," as featured in Claims 4 and 10; but rather is at the proximal-most portion of the trocar assembly (20). Further, described in Shichman, col. 4, lines 3-8 and shown in Shichman, FIG. 1, that which the Examiner identifies as the "pin" does not define a second shield stop as featured in Claims 4, 10, and 17; but rather is a portion of flapper valve (30). Further, regarding Claim 14, rather than moving toward the proximal portion as featured in the claim, when the Shichman shield (8) is retracted, it extends through what the Examiner indicates as the "proximal portion" (area under the arrow of indicator 20). Still further, regarding Claim 17, if the "proximal portion" (area under the arrow of indicator 20) is the proximal handle portion of the Shichman trocar assembly (20) and the area to the left in the FIG. 2 is the distal handle portion of the handle, as indicated by the Examiner in the lower half of page 3 of the subject Office Action, such distal portion of the handle would not be connected to the proximal first end portion of the proximal portion of the trocar body, as featured in the claim.

Nevertheless, in order to expedite issuance of a patent, without prejudice, Applicants have canceled Claims 4, 10-12, and 14, and amended Claims 16 and 17 to be dependent upon rewritten Claim 15 indicated as having allowable subject matter.

Please note, in commenting upon the reference and in order to facilitate a better understanding of the differences that are expressed in the claims, certain details of distinction between the reference and the present invention have been mentioned, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions or making any amendments herein to create any implied limitations in the

claims. Not all of the distinctions between the prior art and Applicants' present invention have been made by Applicants. For the foregoing reasons, the Applicants reserve the right to submit additional evidence showing the distinctions between Applicants' invention to be novel and nonobvious in view of the prior art.

The foregoing remarks are intended to assist the Examiner in re-examining the application and in the course of explanation may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of the claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered to be exhaustive of the facets of the invention that render it patentable, being only examples of certain advantageous features and differences which Applicants' attorney chooses to mention at this time.

CONCLUSION

In view of the amendments and remarks set forth herein, Applicants respectfully submit that the application is in condition for allowance. Accordingly, the issuance of a Notice of Allowance in due course is respectfully requested.

Date: July 12, 2006

Respectfully submitted,



Constance G. Rhebergen
Reg. No. 41,267
Attorney for Applicant

BRACEWELL & GIULIANI, L.L.P.
P.O. Box 61389
Houston, Texas 77208-1389
Telephone: (713) 221-3306
Facsimile (713) 222-3291

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